

# Redistricting 2011

## Legal Overview

March 8, 2011

# Redistricting Legal Overview

## Procedural Legal Overview

# Redistricting Legal Authorities

*California Elections Code*

San Diego County Charter

Federal Law

# California Elections Code

## § 21500 – Mandatory provisions

**The Board of Supervisors shall redistrict**

**Districts “as nearly equal in population as may be”**

**Comply with Section 2 of the Voting Rights Act**

# California Elections Code

§ 21500 – Mandatory provisions

**The Board of Supervisors shall  
redistrict**

Districts “as nearly equal in population as may be”

Comply with Section 2 of the Voting Rights Act

# Why the Board redistricts

- Elections Code § 21500 - “board shall adjust”
- Elections Code § 21501 – “shall be adjusted by the Board”
- Elections Code § 21505 - “board may” create an “advisory only” committee
- County Charter - “County shall be reapportioned by the Board”
- **California Constitution Art XI §4 – “Charter counties are subject to statutes that relate to apportioning population of governing body districts.”**

# California Elections Code

## § 21500 – Mandatory provisions

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Comply with Section 2 of the Voting Rights Act

# Elections Code §21500

## Equal Population

Protects *People*

Use Total Population

US Census 2010 Data

**SIZE DISTRICTS  
DRAW LINES**

## §2 Voting Rights Act

Protects *Voting/Voters*

Use Citizens/Voting Age  
Population

American Community  
Survey

Cal Data, Census

**COMPLIANCE**



# Elections Code §21500

## Equal Population

Protects *People*

Use Total Population

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**SIZE DISTRICTS  
DRAW LINES**

**AIM  
FOR  
ZERO  
VARIATION**

# California Elections Code

## § 21500

The Board of Supervisors shall redistrict

Districts “as nearly equal in population as may be”

**Comply with Section 2 of the Voting Rights Act**

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**COMPLIANCE**

# Why the June deadline?

§ 21505 = RAC must be done by October 1

but

§ 21500.1 = three Board meetings after RAC

and

Registrar of Voters needs new lines in August due to uncertain 2012 election dates

# Redistricting Legal Authorities

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Federal Law

# **San Diego County Charter 400.1**

**After each federal decennial census**

**Districts reapportioned by the Board**

**In such a way that the area of at least two districts is as substantially outside the City of San Diego as the population will permit**

# Redistricting Legal Authorities

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# Federal Law – the Voting Rights Act

## Section 2 (42 U.S.C. § 1973)

(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in (42 USC 1973b(f)(2) [*language minorities, e.g. Hispanics*]) ...



# Federal Law – the Voting Rights Act

Section 2 (42 U.S.C. § 1973)

(b) A violation of subsection (a) of this section is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) of this section in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. ...

# Federal Law – the Voting Rights Act

## Section 2 (42 U.S.C. § 1973)

...The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

# Legal actions alleging Sec 2 violations

Three “pre-conditions” must be met to get to trial on the “totality of circumstances”...

1. Sufficiently large and geographically compact minority to constitute a majority in a redrawn district
2. Minority is politically cohesive
3. Majority bloc voting defeats minority's preferred candidate

# Impact on redistricting process?

Consider census and other data when available

Listen to public input

No “racial gerrymandering” to create majority-minority districts or intentionally discriminate against minorities

Consider traditional redistricting principles...

# ...Elections Code § 21500

- Topography
- Geography
- Cohesiveness, contiguity, integrity and compactness of territory
- Community of Interests

# §21500 – Topography and geography

Natural and man-made features form natural divisions

# §21500 – Cohesiveness, contiguity, integrity

Phrase not interpreted yet by courts for § 21500,  
but in the context of state redistricting:

“The constitutional requirement of ‘contiguity’ is not an abstract or geometric technical phrase. It assumes meaning when seen in combination with concepts of “regional integrity” and “community of interest.”... (for example) the preservation of the “integrity of California’s basic regions (coastal, mountain, desert, central valley and intermediate valley regions)...”

# §21500 - Compactness

California – the “functional view” – ability of citizens to relate to each other, transportation and communication availability... rather than strictly geometric shape;

However, lack of geographic compactness may indicate racial gerrymandering: “appearances do matter”

In any event, compactness of shape is subordinate to equal population and VRA compliance



# §21500 Community of Interests

Social and economic interests common to the population of an area

Interests in common to an urban area, rural area, industrial area, agricultural area.

Interests in common to areas of similar living standards, transportation facilities, work opportunities, same media market relevant to the election process

Political subdivisions

# Redistricting Legal Overview - Conclusion

- ❑ Equal populations in districts
- ❑ Do not violate Sec 2 of the Voting Rights Act
- ❑ Two districts as outside the City of SD as possible
- ✓ Community of interests
- ✓ Compactness
- ✓ Cohesiveness, contiguity, integrity
- ✓ Topography and geography

# Redistricting Legal Overview

## Procedural Legal Overview

# Brown Act Open Meeting Law

See the Brown Act PowerPoint (Notebook, site)

Review Brown Act provisions (Notebook, site)

Meeting of more than two members must be properly noticed and in public

No serial meetings

# Public Records Act

See the Public Records Act PowerPoint in the Notebook and website

All your records pertaining to redistricting are public records.

VERY few exceptions.